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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/532,196      | 03/22/2000  | Robert O. Gjerdingen | M-8410 US           | 8542             |

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SKJERVEN MORRILL MACPHERSON LLP  
25 METRO DRIVE  
SUITE 700  
SAN JOSE, CA 95110

EXAMINER

WITKOWSKI, STANLEY J

ART UNIT PAPER NUMBER

2837

DATE MAILED: 01/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/532196

Applicant(s)

Gjerdingen et al.

Examiner

Witkowski

Group Art Unit

2837

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

☒ Responsive to communication(s) filed on 10-23-01

☒ This action is **FINAL**.

- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

☒ Claim(s) 1-17, 19-31, & 33-56 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-17, 19-31, & 33-56 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some\* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_

☐ Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other \_\_\_\_\_

Office Action Summary

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 20-31, 55 and 56 are rejected under 35 U.S.C. 102(a) as being fully met by Milburn et al.

This patent discloses modification modules and selected targets which read on applicant's modeling modules and plural music spaces, respectively. Milburn's plural attack and resonance vectors read on applicant's plural feature vectors. Note that attack and resonance vectors read on first and second components each having more than two possible values. Claim 20 is met. Applicant's plural feature vectors including emotion, vocal quality, sound quality, situational quality, genre, ensemble and instrument are met by Milburn. Claims 21-29 are met. Milburn's plural targets read on applicant's cluster space. Claim 30 is met. Milburn may receive input from plural listeners to create and compose. Claim 31 is met. Milburn's selecting existing musical elements reads on applicant's requesting for a playlist. Approaching Milburn's targets reads on applicant sample proximity. Claims 55 and 56 are met.

3. Claims 20-31, 55 and 56 are rejected under 35 U.S.C. 102(a) as being fully met by Peevers.

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This patent discloses the use of plural feature vectors to select a preset file representing a particular instrument from a library of instrument preset files reading on applicant's requesting from a playlist. The feature vectors have plural components each of which can have more than two possible values. Peevey's note segments read on applicant's music samples. The modifying of the note to generate synthesis engine parameters reads on applicant's modeling module. Modification is accomplished within a sample proximity. Claims 20, 55 and 56 are met. Applicant's plural feature vectors including emotion, vocal quality, sound quality, situational quality, genre, ensemble and instrument are met by Peevers. Claims 21-29 are met. Regarding claim 30, plural music samples read on applicant's cluster space. Regarding claimed 31, plural listeners may use the Peevers invention.

4. Claims 1-17, 19, and 33-54 are rejected under 35 U.S.C. 102(b) as being fully met by Ino.

This patent discloses inference or inferential engines for checking to determine if musical conditions or user requests are met. The individual tones read on applicant's sample location and a line of melody or accompaniment is a music space. Ino's musical conditions reads on applicant's feature vectors. The conditions or vectors have plural components which are variable having more than two possible values. Applicant's plural feature vectors including emotion, vocal quality, sound quality, situational quality, genre, ensemble and instrument are met by Ino. Subjective feelings such as happy, sad, powerful, gender and speed or tempo are met. Mixing of components or synthesis is provided.

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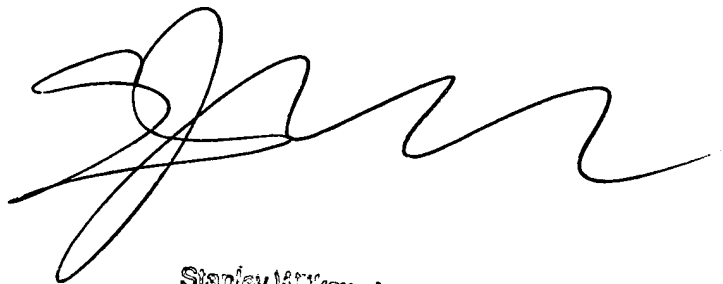
5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication should be directed to Stanley J. Witkowski at telephone number (703) 308-3101.

Witkowski/ds

01/19/02

A handwritten signature in black ink, appearing to be 'Stanley J. Witkowski', written in a cursive, flowing style.

Stanley Witkowski  
Primary Examiner